

² The Board notes that appellant submitted evidence with his appeal to the Board. The Board cannot consider this evidence as its jurisdiction is limited to the evidence that was before OWCP at the time it issued its final decision. 20 C.F.R. § 501.2(c)(1); *P.W.*, Docket No. 12-1262 (issued December 5, 2012).

FACTUAL HISTORY

On April 27, 1992 appellant, then a 50-year-old painter, injured his back when he fell from a ladder. OWCP adjudicated the case under File No. xxxxxx604 and accepted back contusion and lumbar strain. Appellant was placed on the periodic compensation rolls. He has additional claims for back injuries that were combined with the instant claim.³ The accepted conditions were subsequently expanded to include aggravation of degeneration of lumbar intervertebral disc and venous thrombosis of veins, left.

Appellant moved from Oklahoma to Indiana in December 1992. He was referred for vocational rehabilitation and trained in drafting technology. In January 1994 appellant underwent a lumbar laminectomy. He earned an associate's degree in drafting in May 1996 and began private employment as a production assembler in September 1996. Appellant elected Civil Service Retirement benefits, effective September 23, 1996. Nonetheless, by decision dated December 18, 1996, OWCP determined that appellant's actual earnings in private employment had fairly and reasonably represented his wage-earning capacity and reduced his compensation accordingly.

Appellant relocated to The Villages, Florida and began employment as a maintenance man. He stopped work on November 1, 2002 and reverted his retirement benefits to FECA compensation benefits effective that date. Dr. Devin K. Datta, a Board-certified orthopedic surgeon, in Melbourne, Florida, 32901, began treating appellant in November 2002. On June 4, 2003 he performed authorized anterior discectomy and fusion at L4-S1. Appellant had additional surgery in June 2009. He was placed on the periodic compensation rolls in June 2003, and continues to receive FECA compensation benefits.

On November 9, 2016 appellant requested authorization for travel reimbursement of 255 miles each for medical appointments on December 15, 2015, February 12, April 13, June 10, August 11, and October 17, 2016 for medical visits in Melbourne, Florida.

OWCP informed appellant that it was unable to authorize the travel because, effective December 18, 2012, travel limitations had been reduced to 100 miles round trip. Treatment notes contained in the record indicate that appellant was seen by Dr. Syed Farhan Zaidi, a Board-certified orthopedic surgeon and associate of Dr. Datta, on the dates listed.

On December 1, 2016 appellant wrote OWCP requesting reconsideration of the November 14, 2015 denial of reimbursement for mileage. He maintained that none of the local doctors would treat him. The claims examiner telephoned appellant on January 5, 2017. She explained that, as he lived in an area with an abundance of physicians, OWCP could no longer continue paying travel expenses for 255 miles round trip. The claims examiner informed him that, if he wished to continue with his current physician, he would be reimbursed at the rate of

³ A claim for an April 20, 1979 injury, assigned OWCP File No. xxxxxx742, was accepted by OWCP for low back strain and temporary aggravation of preexisting scoliosis. It also accepted a claim for an August 19, 1981 injury, assigned OWCP File No. xxxxxx725, for lumbar strain and aggravation of preexisting herniated nucleus pulposus.

100 miles round trip only. Appellant requested that OWCP send him a list of physicians in his area and a formal decision denying his request for travel reimbursement.

On January 11, 2017 OWCP forwarded appellant an eight-page list of physician providers in appellant's commuting area which included The Villages, Lady Lake, Fruitland Park, Leesburg, and Ocala, Florida.

By decision dated January 11, 2017, OWCP denied appellant's claim for 255 miles travel reimbursement on December 15, 2015, February 12, April 13, June 10, August 11, and October 17, 2016. It found that the evidence of record did not establish that travel for medical treatment was warranted from The Villages, Florida, 32159 to Melbourne, Florida, 32901, because there was no compelling reason for travel outside his commuting area. OWCP noted that appellant's commuting area included specialists who are qualified to treat his employment-related conditions.

LEGAL PRECEDENT

Section 8103(a) of FECA provides for the furnishing of services, appliances, and supplies prescribed or recommended by a qualified physician which OWCP, under authority delegated by the Secretary, considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation.⁴ In interpreting section 8103(a), the Board has recognized that OWCP has broad discretion in approving services provided under FECA to ensure that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time.⁵ OWCP has administrative discretion in choosing the means to achieve this goal and the only limitation on OWCP's authority is that of reasonableness.⁶

OWCP regulations provide that the employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances, or supplies.⁷ To determine a reasonable distance, OWCP will consider the availability of services, the employee's condition, and the means of transportation. Effective August 29, 2011, OWCP regulations provide that a round-trip distance of up to 100 miles is considered a reasonable distance to travel.⁸ If round-trip travel of more than 100 miles is contemplated, or air transportation or overnight accommodations will be needed, the employee must submit a written request to OWCP for prior authorization with information describing the circumstances and necessity for such travel expenses. OWCP will approve the request if it

⁴ 5 U.S.C. § 8103(a).

⁵ *Dale E. Jones*, 48 ECAB 648 (1997).

⁶ *Daniel J. Perea*, 42 ECAB 214 (1990) (Abuse of discretion by OWCP is generally shown through proof of manifest error, clearly unreasonable exercise of judgement, or administrative actions which are contrary to both logic and probable deductions from established facts).

⁷ 20 C.F.R. § 10.315(a).

⁸ *Id.*

determines that the travel expenses are reasonable and necessary and are incidental to obtaining authorized medical services, appliances or supplies.⁹

Pursuant to FECA Bulletin No. 14-02, issued January 29, 2014, when a claimant submits a travel reimbursement in excess of 100 miles for a single date of service, the bill will automatically be suspended and the Central Bill Processing provider will send notification to OWCP claims examiner.¹⁰ FECA Bulletin No. 14-02 notes that in some limited circumstances it may be necessary for a claimant to travel more than 100 miles on a regular basis, such as when the claimant lives in a remote area.¹¹

ANALYSIS

The Board finds that OWCP did not abuse its discretion in denying appellant's requests for travel reimbursement.

On November 9, 2016 appellant requested authorization for mileage reimbursement of 255 miles each for medical appointments on December 15, 2015, February 12, April 13, June 10, August 11, and October 17, 2016.

As noted above, OWCP regulations provide that generally a round trip of up to 100 miles is a reasonable distance to travel.¹² There may be circumstances where travel reimbursement of more than 100 miles is appropriate. An example of those circumstances might be an appellant who lives in a remote area with limited medical services and physicians of an appropriate specialty. To establish that a travel reimbursement of more than 100 miles is warranted, OWCP regulations indicate that the claimant must provide information describing the circumstances and necessity for such travel expenses.¹³

In this case, there is no evidence that appellant lived in a remote area with limited access to medical services or providers. There is no indication that competent and appropriate medical care was not available within his commuting area. Although OWCP had authorized travel expenses to Dr. Datta and his associates in the past, this past practice does not establish a right to continuing authorization.¹⁴ As indicated in FECA Bulletin No. 14-02, any travel reimbursement request of more than 100 miles is to be reviewed by an OWCP claims examiner.¹⁵

⁹ *Id.* at § 10.315(b).

¹⁰ FECA Bulletin No. 14-02 (issued January 29, 2014).

¹¹ *Id.*

¹² 20 C.F.R. § 10.315(a).

¹³ *Id.* at § 10.315(b).

¹⁴ *See W.H.*, Docket No. 14-1662 (issued February 3, 2015).

¹⁵ *Supra* note 10.

The Board finds that OWCP properly denied the travel reimbursement request in this case. No probative evidence was presented with respect to the necessity of travel over the 100-mile standard set forth in OWCP regulations. OWCP has administrative discretion with respect to authorization of travel reimbursement.¹⁶ The Board finds that OWCP did not abuse its discretion in denying appellant's travel reimbursement requests.¹⁷

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP did not abuse its discretion in denying appellant's request for travel reimbursement.

ORDER

IT IS HEREBY ORDERED THAT the January 11, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 2017
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

¹⁶ *Supra* note 6.

¹⁷ *See V.K.*, Docket No. 12-1103 (issued October 12, 2012).